

# ADVISORY OPINION

AO-IECDB 2011-06

November 10, 2011

S. Brenna Findley  
General Counsel  
Office of the Governor  
State Capitol  
Des Moines, IA 50319

Dear Ms. Findley:

This opinion is in response to your request for an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapter 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

## FACTUAL STATEMENT:

We understand you request this opinion in your capacity as General Counsel for the Governor's Office. You advise the Board that the Executive Protection Unit (EPU) is required to provide security to the Governor and Lieutenant Governor. This security has been historically provided regardless of whether the Governor or Lieutenant Governor is on personal or official business. It is EPU practice to chauffeur the Governor, whether in a state-owned or private vehicle.

The Governor and Lieutenant Governor often attend campaign functions. These events are typically interspersed with official business in a given day. These campaign functions may be for the benefit of the Governor and Lieutenant Governor's campaign as well as other candidates' campaigns.

You have submitted the Governor and Lieutenant Governor's campaign/political travel reimbursement proposal for the Board's review. The proposal indicates the Governor's

office will keep track of all mileage by EPU vehicles for campaign functions. The proposal states the State will be reimbursed by the Governor's candidate committee for any additional mileage that would not have been driven but for the campaign function. The proposal states the Governor's candidate committee will reimburse the State at the same rate a state officer or employee is compensated for driving a privately-owned vehicle on State business. See Iowa Code § 8A.363. The proposal states the Governor's office will tally all mileage related to campaign function travel on a monthly basis and submit the total to the Governor's candidate committee for reimbursement to the State.

#### QUESTION:

Is this proposal sufficient to ensure no public money is expended for political purposes?

#### OPINION:

Iowa Code section 68A.505 prohibits the State and the governing body of a county, city, or other political subdivision of the State from "expend[ing] or permit[ting] the expenditure of public moneys for political purposes." "Political purposes" means "the express advocacy of a candidate or ballot issue." Iowa Code § 68A.102(19). Iowa law defines a "campaign function" as "any meeting related to a candidate's campaign for election." Id. § 68A.102(3). We previously opined that in order for an event to be a "campaign function," it must include "express advocacy" activities. IECDB 2010-08. Thus to be a "campaign function," the event would include fundraising or communications that "expressly advocated" the election or defeat of the candidate by the use of words or symbols that unambiguously exhort someone to vote for or against a candidate. See Iowa Code § 68A.102(14) (defining "express advocacy"). Otherwise, arguably every meeting that an incumbent had could constitute a "campaign function." We are of the opinion that the proposal you have outlined is appropriate and ensures no public money is expended for political purposes.

#### BY DIRECTION AND VOTE OF THE BOARD

James Albert, Chair  
John Walsh, Vice Chair  
Saima Zafar  
Carole Tillotson  
Jonathan Roos  
Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel

